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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/434,314   | 11/04/1999  | PETER J. BLACK       | PA000045            | 3810             |
| 23696  | 7590        | 11/02/2005           | EXAMINER            |                  |
| QUALCOMM, INC<br>5775 MOREHOUSE DR.<br>SAN DIEGO, CA 92121 |             |                      | LEE, JOHN J         |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2684                |                  |

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/434,314 | <b>Applicant(s)</b><br>BLACK, PETER J. |  |
|                              | <b>Examiner</b><br>JOHN J. LEE       | <b>Art Unit</b><br>2684                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 40-58,69-83 and 87-96 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-58,69-83 and 87-96 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 40-58, 69-83, and 87-96** are rejected under 35 U.S.C. 102(e) as being anticipated by Kondo (US Patent number 6,526,028).

Regarding **claims 40, 49, and 69**, Kondo discloses that a method for performing handoff in a communication system (Fig. 7 and abstract). Kondo teaches that receiving, by a subscriber station (10 in Fig. 7), pilot signals and reverse link power control commands from one or more base stations (20s in Fig. 7) (Fig. 15 and column 30, lines 38 – 50 where teaches base stations transmit a reverse transmission power control information signal and pilot information signal). Kondo teaches that selecting a first base station (20 in Fig. 7), for transmission of forward link data to the subscriber station (10 in Fig. 7) based, at least in part, on energy of the pilot signals received from the one or more base stations (Fig. 7 and column 28, lines 7 – 52 where teaches mobile station determines, as a particular base station, one of the first through the third base stations based on quality level, power reception level). Kondo also teaches that performing a handoff to the first base station if signals transmitted by the subscriber station are received by the first base station with sufficient energy according to the transmission power information

signal and base station information signal received from the first base station (column 30, lines 38 – column 31, lines 48, Fig. 9, 16, and column 8, lines 13 – 43, where teaches the base stations transmit power control information and pilot information to mobile station and mobile station determines the a base station based on forward link power since has been stored the forward power command in reception level measuring section, and transmits the information, reverse link fading information, to the base station. When base station determines whether or not any propagation error based on the reverse link fading information on the basis of the detected result, the base station transmits the forward transmission signal to the mobile station for performing handoff).

Furthermore, the claimed limitation “one or more base stations” can be interpreted only one base station, which is currently communicating with the mobile station, transmits power control commands and pilot signal to the mobile station as known art and the mobile station does not need handoff because of communicating one base station.

Regarding **claims 41, 50, and 70**, Kondo discloses that storing information corresponding to the reverse link power control commands received from the one or more base stations (Fig. 8 and column 28, lines 7 – 52).

Regarding **claims 42, 51, and 71**, Kondo discloses all the limitation as discussed in claim 40. Furthermore, Kondo further discloses that if it is necessary to perform the handoff, determining whether the signals transmitted by the subscriber station are received by the first base station with sufficient energy based, at least in part, on history of the reverse link power control commands received from the first base station (column 30, lines 38 – column 31, lines 48, Fig. 9, 16, and column 8, lines 13 – 43, where teaches

the base stations transmit power control information and pilot information to mobile station, and if necessary to perform the handoff, mobile station determines a base station based on forward link power with sufficient power since has been stored the forward power command in the reception level measuring section and transmits the information, reverse link fading information, to the base station. When base station determines whether or not any propagation error based on the reverse link fading information on the basis of the detected result, the base station transmits the forward transmission signal with sufficient power to the mobile station for performing handoff).

Regarding **claims 43, 53, and 72**, Kondo discloses all the limitation as discussed in claim 40. Furthermore, Kondo further discloses that if the signals transmit by the subscriber station are not received by the first base station with sufficient energy, inhibiting the handoff to the first base station (column 30, lines 38 – column 31, lines 48, Fig. 9, 16, and column 8, lines 13 – 43).

Regarding **claims 44 and 54**, Kondo discloses all the limitation as discussed in claims 40 and 42.

Regarding **claims 45, 55, and 73**, Kondo discloses all the limitation as discussed in claims 40 and 42.

Regarding **claims 46 and 56**, Kondo discloses all the limitation as discussed in claims 40 and 42.

Regarding **claims 47, 57, and 74**, Kondo discloses all the limitation as discussed in claim 40. Furthermore, Kondo further discloses that transmitting, by the subscriber station, a message indicating identity of the first further indicates a requested rate to

transmit to the subscriber station (column 1, lines 7 – 58 and Fig. 1, 4, 7, where teaches transmitting the signal with identity code of the base station).

Regarding **claims 48, 58, and 75**, Kondo discloses all the limitation as discussed in claim 40. Furthermore, Kondo further discloses that the message further indicates a request rate to transmit to the subscriber station (column 26, lines 16 – column 27, lines 22 and Fig. 6).

Regarding **claim 52**, Kondo discloses all the limitation as discussed in claims 40 and 42.

Regarding **claim 76**, Kondo discloses all the limitation, as discussed in claims 40 and 49.

Regarding **claim 77**, Kondo discloses all the limitation, as discussed in claims 40 and 69.

Regarding **claim 78**, Kondo discloses all the limitation, as discussed in claims 40 and 69. Furthermore, Kondo discloses that transmitting, by the subscriber station, a message indicating the identity of said selected base station (column 23, lines 24 – 33 and Fig. 7, 15).

Regarding **claim 79**, Kondo discloses all the limitation, as discussed in claims 40 and 69.

Regarding **claims 80 and 83**, Kondo discloses all the limitation, as discussed in claims 40 and 41. Furthermore, Kondo further discloses that a processor (107 in Fig. 8), coupled with the memory (115 in Fig. 8), configured to permit a handoff to a selected

Art Unit: 2684

base station of the one or more base stations according to the reverse link power control commands (Fig. 8 and column 28 – 7 – 52).

Regarding **claim 81**, Kondo discloses all the limitation, as discussed in claims 40 and 69. Furthermore, Kondo further discloses that the reverse link power control commands requesting the subscriber station to decrease its transmission energy are indicative that the reverse link signal being received (column 26, lines 46 – 67 and Fig. 15).

Regarding **claim 82**, Kondo discloses all the limitation, as discussed in claims 40 and 69. Furthermore, Kondo further discloses that the reverse link power control commands requesting the subscriber station to increase its transmission energy are indicative that the reverse link signal is not being received (column 26, lines 46 – 67 and Fig. 15).

Regarding **claim 87**, Kondo discloses all the limitation, as discussed in claims 40 and 69.

Regarding **claim 88**, Kondo discloses all the limitation, as discussed in claims 40 and 80. Furthermore, Kondo further discloses that a memory configured to store messages, provided by one or more base stations, indicating a rate request of reverse link transmissions by the apparatus (column 26, lines 46 – 53 and Fig. 7, 15, where teaches prediction is made that a transmission rate where a large capacity of data is transmitted from a data base at a network side the mobile station is large).

Regarding **claim 89**, Kondo discloses all the limitation, as discussed in claims 80 and 88.

Regarding **claims 90 and 94**, Kondo discloses all the limitation, as discussed in claims 40 and 69.

Regarding **claims 91 and 95**, Kondo discloses that receiving from the first base station a message indicating a quality of the received reverse link signal (Fig. 8 and column 28, lines 35 – 52).

Regarding **claim 92** Kondo discloses all the limitation, as discussed in claims 40 and 69. Furthermore, Kondo further discloses that the received reverse link signal is a data request control signal (column 32, lines 34 – 45 and Fig. 20).

Regarding **claim 93**, Kondo discloses that determining the first base station was not selected for transmission of a last frame of data (Fig. 8 and column 28, lines 30 – 52).

Regarding **claim 96**, Kondo discloses all the limitation, as discussed in claims 40 and 76.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kondo (US Patent number 6,580,745) discloses Spread Spectrum Communication System and Overload Control Method Therefor.

Hamabe (US Patent number 6,731,949) discloses Method of Controlling Transmission Power in a Cellular Type Mobile Communication System.

Information regarding...Patent Application Information Retrieval (PAIR) system... at 866-217-9197 (toll-free)."



Art Unit: 2684

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
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or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-6606 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to USPTO Headquarters,  
Alexandria, VA.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John J. Lee** whose telephone number is **(571) 272-7880**. He can normally be reached Monday-Thursday and alternate Fridays from 8:30am-5:00 pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, **Nay Aung Maung**, can be reached on **(571) 272-7882**. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

J.L.  
October 28, 2005

John J Lee

**EDAN ORGAD**  
**PATENT EXAMINER/TELECOMM.**

*E.O. 10/27/05*